



## Early Journal Content on JSTOR, Free to Anyone in the World

This article is one of nearly 500,000 scholarly works digitized and made freely available to everyone in the world by JSTOR.

Known as the Early Journal Content, this set of works include research articles, news, letters, and other writings published in more than 200 of the oldest leading academic journals. The works date from the mid-seventeenth to the early twentieth centuries.

We encourage people to read and share the Early Journal Content openly and to tell others that this resource exists. People may post this content online or redistribute in any way for non-commercial purposes.

Read more about Early Journal Content at <http://about.jstor.org/participate-jstor/individuals/early-journal-content>.

JSTOR is a digital library of academic journals, books, and primary source objects. JSTOR helps people discover, use, and build upon a wide range of content through a powerful research and teaching platform, and preserves this content for future generations. JSTOR is part of ITHAKA, a not-for-profit organization that also includes Ithaka S+R and Portico. For more information about JSTOR, please contact [support@jstor.org](mailto:support@jstor.org).

upon the undistributed profits of a corporation, and then a moderate increase in the lower income tax rates.<sup>2</sup> In fact, it may well be desirable to eliminate a separate income tax upon corporations altogether, and substitute therefor a tax upon each stockholder's share in the corporate income, distributed and undistributed.<sup>3</sup> It is to be hoped that the recent dictum of the Supreme Court casting doubt upon the constitutionality of such a course<sup>4</sup> will not stand in the way of what seems after all the only fair method of eliminating inequalities of taxation between corporations, partnerships, and individuals.

The books appear in attractive form in flexible red leather binding. A desirable feature is the reproduction of all the important forms. Many will also find desirable the section dealing in some detail with the New York Income Tax, though, to those of us who do not live in the Empire State, the inclusion of a discussion of such a local law to swell an already large work seems hardly justified.

CHARLES E. CLARK

Yale University.

*Occasional Papers and Addresses of an American Lawyer.* By Henry W. Taft. New York, The Macmillan Co., 1920. pp. xxiii, 331.

There is much that in its character or form is occasional, which deserves to be classed as permanent. Thoughts well expressed in a public address often gain more than they lose by being, later, embedded in a book. This collection is of that nature. It covers a variety of subjects, but all have some bearing on law and government.

John Marshall is one of Mr. Taft's heroes, and his great work is thus described (p. 18):

"Until Marshall, as a Justice of the Supreme Court, began his career, the Constitution was no more a living organism than the constitutions of Mexico or some of the Latin-American republics of South America, whose mere words are equally admirable. An interpretation less statesmanlike than his might have made the clauses of the Constitution little more than futile rhetoric."

Considerable space is given to a discussion of Bolshevism. The author sees no good in it.

"The fundamental principles upon which Bolshevism is based are irreconcilably at war with the Anglo-Saxon idea of civil liberty, because they are predicated upon inequality of opportunity of citizens, deprivation of personal and property rights, and cruel and oppressive despotism.

"However much we may sympathize with the Russian people so long as they are forced to tolerate the soviet form of government, their government must of necessity be at war with the social, industrial, and political institutions of every other government on earth. The constitution and decrees under which the Executive Committee of the All-Russian Soviet Government acts are themselves a declaration of war against every nation on earth, because they assert the necessity of overthrowing every existing government. They preclude diplomatic relations; they compel the expulsion or effective surveillance of so-called diplomatic representatives that the Soviet Republic may send out, and they require the complete suspension of all commercial and financial relations with the government and the people." (p. 111) . . .

"Forceful government repression of Bolshevik propaganda will undoubtedly be necessary. But our democratic institutions are not well adapted to the eradication by such means of agitation, even when it is seditious. We must not neglect other defensive measures, such as the education of the people as to the character

<sup>2</sup> He also urges a constitutional amendment giving power to tax income from state and municipal securities. See discussion in COMMENTS (1920) 30 YALE LAW JOURNAL, 75.

<sup>3</sup> See discussion in Clark, *Eisner v. Macomber* (1920) 29 YALE LAW JOURNAL, 735, 741-744.

<sup>4</sup> *Eisner v. Macomber* (1920) 40 Sup. Ct. 189. See (1920) 29 YALE LAW JOURNAL, 742, 744.

of the Bolshevik movement. No group in the community can be so efficient in conducting such a campaign of education as the League for Political Education. But we must also arouse Congress and state legislatures to enact laws adapted to meet the menace, and urge officers of the state and federal government to enforce them" (p. 116).

Our accession to the League of Nations is contemplated as desirable, although Mr. Taft favors our suggestion of certain important amendments. Article X satisfies him as it stands.

"Article X is one of the most beneficent provisions of the Government, and it is absolutely necessary if we are to discharge the responsibility which has been cast upon us as a nation and the new peace treaty is to be anything more than a mere paper contract without substantial sanctions" (p. 139).

He takes a broad view of the treaty-making power, and invokes our past history for its support.

"We have made treaties for the reduction of armament, the maintenance of armed forces in foreign territory, the fixing of boundaries, the maintenance of neutrality of territory belonging to other nations, the guarantee of the independence of other nations, the compulsory arbitration of disputed matters and the postponement of war during that process, the participation by this country with other countries in the affairs and government of backward nations, a restriction upon the right to erect fortifications for the protection of property in which this country is interested and with reference to which it assumes a responsibility, and an appropriation of money in order to make all such treaties effective. The Constitution of the League of Nations, excepting that it deals in a single treaty with a greater number of nations and a greater variety of subjects, does not require an invasion of the sovereignty of the United States to a greater extent than that involved in the treaties above enumerated; or, if it does, the greater concessions are justified by the lofty and beneficent purpose to insure a lasting and universal peace" (pp. 159, 160, 170).

A book of this character is rarely free from repetitions. The same subject discussed in a public address may have been also the subject of a magazine article, and if both are incorporated in one volume, the author can hardly resist the temptation to preserve a pet passage which is found in each. Thus, the paragraph last quoted appears in two places, ten pages apart.

The problems of railroad finance are dealt with at some length. On that subject Mr. Taft may be considered an expert. He favors a guarantee by the United States of railroad securities, on terms that would put and keep them at or near par (p. 209). It must be based on giving the government a large measure of control.

"Labor will see as much reason for obtaining a fixed return to it as to capital, and the traveling public and shippers will be unwilling to have rates left for future determination unless standardization and economics through consolidation give promise of economical and efficient service. Any plan for government guarantee of income on property investment must come much nearer government ownership than that which contemplates the retention of the roads by the old corporations, and especially because, as pointed out above, the government must in return for any guarantee it makes be put in a position where, in case the new system breaks down, it can itself take possession of the roads and try some other form of operation, as, for instance, through leases to operating companies" (p. 210). . . . "The plan would tend to solve both the labor and the rate problem. Rates and wages are the two factors on which more than any other the prosperity of railroads depends. Rates would be fixed by some government agency which would be interested to see that they were fair, since the guarantee of the government and the profit-sharing features make it a partner in the enterprise. If the demands of labor should disturb the equilibrium of the conflicting interests, the government would be confronted with the alternative of (1) making good a part of its guarantee and losing its share over the guaranteed amount of earnings, or (2) authorizing increase in rates to meet the increased wage scale, or (3) using its power under appropriate legislation through suitable commissions to regulate and standardize wage scales. In other words, the proposed plan would tend to tie up wages and rates in such manner that they would be interdependent" (pp. 214, 215).

Several pages are devoted to an endeavor to minimize the meaning of Mr. Justice Holmes' declaration in the Oklahoma Bank case that the police power extends, generally speaking, to all great public needs, as viewed by a strong and preponderant opinion. He points out that such an opinion "could not be ascertained to exist by the vote of a majority of the electorate composed of 25 per cent. of the entire population; that is, by one-eighth of the entire people" (p. 228). This argument is not so strong now as it was a year ago.

The volume is full of sound reasoning and clear statement. It would, however, have been improved if a few of the minor papers included in it had been omitted.

New Haven, Connecticut.

SIMEON E. BALDWIN

*Constitutional Convention Bulletins—Illinois, 1920.* Compiled and published by the Legislative Reference Bureau, Springfield, Illinois, 1920. pp. xxxiii, 1224.

This volume contains the bulletins issued by the Legislative Reference Bureau of Illinois for the information of members of the Illinois Constitutional Convention of 1920. The Bureau is expressly charged with the preparation of the bulletins by the legislature, a testimonial to the value of its work from those legislators whom it had served, something which is worth bringing to the attention of law-makers who have not yet been convinced of the utility of such bureaus. The bulletins contain texts of the various Illinois constitutions, with suggestions which have been made for changes in the separate articles of the present instrument, a general statement of the procedure and problems of the convention, studies of the executive, legislative, and judicial departments, and special examinations of important questions involved in constitutional amendments, such as state and local finance, municipal home rule, county and local government, and the short ballot.

The bulletins are evidently not intended as exhaustive treatises, but as aids to men engaged in a special task, the drafting of a new constitution for Illinois. They are very properly rather suggestive of present difficulties and of possible solutions, and are for that reason the more useful for the purpose for which they are prepared. The references to the cases and to books of reference indicate the way to members who desire further information.

The provisions of former Illinois constitutions and of the existing one are treated analytically and historically, and the difficulties raised in the state by the application of those provisions are set forth, whether arising from the provisions themselves or from the interpretation placed upon them by the courts.

The importance of careful drafting, both to express clearly the intention of the Convention and to avoid the many pitfalls dug by the courts to catch the unwary constitution-maker, are emphasized throughout the reports, especially on page 12, and pages 579 and 847. So much of a modern state constitution consists in limitations on the power of the legislature, either express or as a result of construction of the courts, that the discussion of this subject is particularly interesting. The result of these limitations has been that the legislature is seriously hampered in a time of economic and social change in its task of adjusting the law to the new conditions, and the inclusion of much detail in state constitutions rendered inevitable. The much vaunted "simple constitution" on broad lines is only possible if the courts will construe its provisions liberally, so as to set free the legislative power. The transformation of the ship of state from 1818, when the first constitution of Illinois was adopted, through the constitutions of 1848 and 1870 to the present time, and the consequent need of a new set of rules for its government, is strikingly shown in the statement that the appropriations for the cost of government for the biennium 1873-74 was \$6,648,187, while for the two years 1919-20 it amounted to \$63,436,059, "due largely to the increase in functions during the last half century" (p. 628). As vessels have changed during the last